

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

*

v.

CR. NO. 05-10024 -T

KEITH ROBINSON
Defendant.

*

MOTION PURSUANT TO FEDERAL RULE OF APPELLATE PROCEDURE
4(b)(4) FOR EXTENSION OF TIME IN WHICH TO FILE NOTICE OF APPEAL

Comes now Defendant by and through counsel and Moves this Honorable Court that the Defendant be granted an extension of time for filing of notice of appeal pursuant to Federal Rule of Appellate Procedure 4(b)(4) on the grounds of excusable neglect or good cause shown. In support of this motion counsel for Defendant would state:

1. Defendant was sentenced in this matter on October 31, 2005 and the judgement was entered on November 4, 2005. Defense counsel was out of the office on leave on November 4, 2005 and was also out of the office on leave on November 8th and 9th, 2005. Friday November 11, 2005 was a legal holiday. A copy of the judgement was forwarded to counsel's office on Friday, November 4, 2005 at approximately 10:58 p.m. via facsimile notice. Counsel was not in to review such notice until after business hours on November 9, 2005. Monday November 14, 2005 was the last date upon which to file the notice of appeal.

2. Due to counsel's absence from the office during much of the 10 day period following entry of the judgement and counsel's belief that a notice of appeal had in fact been filed upon counsel's return, the notice of appeal was not filed within the 10 day period.

MOTION GRANTED
DATE: 8 December 2005


James D. Todd
U.S. District Judge

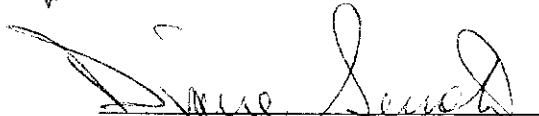
29

3. Defendant entered a plea of guilty to the indictment and preserved his right to appeal the Court's ruling on the Motion to Suppress by entry of a 'Rule 11 Reservation' prior to sentencing. Thus it was clearly the intent of Defendant to pursue an appeal and the government also consented to this reservation of the issue for appeal.

4. Defense counsel has consulted with government counsel regarding the motion and relief requested and there is no opposition to the relief requested.

Premises considered, Defendant moves that he be granted an extension of time in which to file the Notice of Appeal. Defendant requests that he be granted an extension of 30 days from the time otherwise prescribed by Rule 4(b) of the Federal Rules of Appellate Procedure, that being until December 14, 2005.

Respectfully submitted, this the 8 day of Dec. 2005.


M. Dianne Smothers [011874]
Assistant Federal Defender
109 S. Highland Ave., Rm. B-8
Jackson, TN 38301
Phone: (731)427-2556

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing was served upon all interested parties by either hand delivery or by mailing same, postage prepaid to the following:

Mr. Jimmy Croom
Assistant United States Attorney
109 South Highland, Suite 300
Jackson, Tennessee, 38301

This the 8 day of Dec., 2005.


M. Dianne Smothers



Notice of Distribution

This notice confirms a copy of the document docketed as number 39 in case 1:05-CR-10024 was distributed by fax, mail, or direct printing on December 12, 2005 to the parties listed.

M. Dianne Smothers
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Honorable James Todd
US DISTRICT COURT